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The Honorable G. William Whitehurst House of Representatives

Dear Mr. Whitehurst:

This is in reply to your request of February 16, 1972, for our comments on a letter to the editor, written by Mr. David Dooling, Sr., which appeared in the February 4, 1972, issue of the Virginian-Pilot. Mr. Dooling's letter, brought to your attention by Mr. Sam T. Barfield, Commissioner of the Revenue, city of Norfolk, Virginia, deals with school grants for federally impacted areas and local tax losses due to Federal real property holdings. In his letter to the editor Mr. Dooling suggests-

"* * * that the annual battle over impacat funds be resolved in the following manner; that a board of equalization be set up to determine equitable reimbursement to communities by the Federal Government for land removed from tax rolls; that all new authorization of land acquisition have such reimbursement built-in; that such funds be given to communities with no Federal controls; that all non-residents of Virginia be required to pay tuition unless they can show that they would not have been required to pay Virginia income tax."

That the immunity of Federal lands from State and local taxes, a matter of United States sovereignty, may create and enhance problems for State and local governments within whose borders the properties lie is well recognized. The Congress has on occasion taken cognizance of that fact and, among other things, has in specific situations authorized by statute payments in lieu of taxes which is essentially what Mr. Dooling is suggesting. For example, payments may be made by the United States Housing Authority in lieu of taxes to any State of local subdivision with respect to real property owned by the authority. Such payments are limited to 10 percent of the annual shelter charge for the dwelling units. The Public Land Law Review Commission, which was established by Public Law 88-606, September 19, 1964, extensively studied the subject of the tax immunity of the United States and the related financial problems of State and local governments. In the Commission's final report, dated June 1970, entitled One Third of the Nation's Land, it devoted a chapter to the subject of tax immunity, and in summarizing its recommendations stated (page 4):

"We * * * recommed that:

"The United States make payments in lieu of taxes for the ubrdens imposed upon State and local governments by reason of the Federal ownership of public lands without regard to the revenues generated therefrom. Such payments should not

represent full tax equivalency and the state and local tax effort should be a factor in determing the exact amount to be paid."

Perhaps as a result of the Commission's final report bills for the general authorization of payments in lieu of taxes have been introduced. One such bill is H.R. 8545, 92d Congress, which Mr. Aspinall introduced by request. It thus appears that Mr. Dooling's suggestion of an "equitable reimbursement to communities by the Federal Government for land removed from tax rolls" is being advanced in measures before the Congress. However, we are not in a position to evaluate, with reference to the city of Norfolk, Mr. Dooling's suggestion that payments in lieu of taxes be substituted for impact funds. Also, of course, absent the enactment of legilation authorizing payments in lieu of taxes Federal agencies generally would be without authority to make such payments.

With respect to Federal aid for education, the President has proposed, in his revenue sharing plan, a special revenue sharing for education. Funds would be distributed on the basis of a statutory formula taking into account the total school age population in each State, the number of students from low-income families, and the number of students whose parents work or live on Federal property. Under this proposal for education revenue sharing, States and local school districts would be given greater flexibility in deciding how Federal funds should be spent. To offset the loss of local school taxes, revenue sharing for education would provide a direct pass through to local school districts enrolling children living on Federal property, i.e., property which provides no taxes for education.

Mr. Dooling also suggests that all non-residents of Virginia should be required to pay tuition unless they could show that they would not be required to pay Virginia income tax. In connection with that suggestion it may be mentioned that, under the provisions of Public Law 81-874 (20 U.S.C. 238), school districts are not eligible for impact funds for children of non-resident parents living on Federal property who are paying school tuition. Under this law, eligible Virginia school districts are entitled to receive a minimum of $384.98 per child in fiscal year 1972.

It is hoped the foregoing will be of assistance in evaluating Dooling's suggestions.

Sincerely yours,

R. F. KELLER Deputy Comptroller General of the United States